

By the Committees on Budget; Agriculture; Communications, Energy, and Public Utilities; and Communications, Energy, and Public Utilities

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1 A bill to be entitled
2 An act relating to energy; amending s. 186.801, F.S.;
3 adding factors for the Public Service Commission to
4 consider in reviewing the 10-year site plans submitted
5 to the commission by electric utilities; amending s.
6 212.055, F.S.; providing for a portion of the proceeds
7 of the local government infrastructure surtax to be
8 used for financial assistance to residential and
9 commercial property owners who make energy efficiency
10 improvements or install renewable energy devices;
11 defining the term "energy efficiency improvement";
12 amending s. 212.08, F.S.; providing definitions for
13 the terms "biodiesel," "ethanol," and "renewable
14 fuel"; providing for tax exemptions in the form of a
15 rebate for the sale or use of certain equipment,
16 machinery, and other materials for renewable energy
17 technologies; providing eligibility requirements and
18 tax credit limits; authorizing the Department of
19 Revenue and the Department of Agriculture and Consumer
20 Services to adopt rules; directing the Department of
21 Agriculture and Consumer Services to determine and
22 publish certain information relating to exemptions;
23 providing for expiration of the exemption; amending s.
24 220.192, F.S., providing definitions; reestablishing a
25 corporate tax credit for certain costs related to
26 renewable energy technologies; providing eligibility
27 requirements and credit limits; providing rulemaking
28 authority to the Department of Revenue and the
29 Department of Agriculture and Consumer Services;

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30 directing the Department of Agriculture and Consumer
31 Services to determine and publish certain information;
32 providing for expiration of the tax credit; amending
33 s. 220.193, F.S.; reestablishing a corporate tax
34 credit for renewable energy production; providing
35 definitions; providing a tax credit for the production
36 and sale of renewable energy; providing requirements
37 relating to the priority and proration of such tax
38 credits under certain circumstances; providing for the
39 use and transfer of the tax credit; limiting the
40 amount of tax credits that may be granted to all
41 taxpayers during a specified period; providing
42 rulemaking authority to the Department of Revenue;
43 providing for expiration of the tax credit; amending
44 s. 255.257, F.S.; directing the Department of
45 Management Services, in coordination with the
46 Department of Agriculture and Consumer Services, to
47 further develop the state energy management plan;
48 amending s. 288.106, F.S.; redefining the term "target
49 industry business," for purposes of a tax refund
50 program, to exclude certain electrical utilities;
51 amending s. 366.92, F.S.; deleting an obsolete
52 directive to the Public Service Commission to adopt
53 rules for a renewable portfolio standard; deleting
54 related definitions; creating s. 366.94, F.S.;

55 providing that the provision of electric vehicle
56 charging to the public by a nonutility is not the
57 retail sale of electricity; providing that the rates,
58 terms, and conditions of electric vehicle charging

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59 services by a nonutility are not subject to regulation
60 under ch. 366, F.S.; requiring the Department of
61 Agriculture and Consumer Services to develop rules for
62 sales at electric vehicle charging stations;
63 prohibiting the obstruction of a parking space at an
64 electric vehicle charging station; providing a
65 penalty; requiring that the Public Service Commission
66 study the effects of charging stations on energy
67 consumption in the state and the effects on the grid
68 and report the results to the President of the Senate,
69 the Speaker of the House of Representatives, and the
70 Executive Office of the Governor; amending s. 526.203,
71 F.S.; revising the definitions of the terms "blended
72 gasoline" and "unblended gasoline"; defining the term
73 "alternative fuel"; authorizing the sale of unblended
74 fuels for certain uses; directing the Department of
75 Agriculture and Consumer Services to compile a list of
76 retail fuel stations that sell or offer to sell
77 unblended gasoline and provide that information on the
78 department's website; amending s. 581.083, F.S.;

79 prohibiting the cultivation of certain algae in
80 plantings greater in size than 2 contiguous acres;
81 providing exceptions; providing for exemption from
82 special permitting requirements by rule; revising
83 certain bonding requirements; requiring the Department
84 of Agriculture and Consumer Services to conduct a
85 statewide forest inventory; requiring the Department
86 of Agriculture and Consumer Services to work with
87 other specified entities to develop information on

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88 cost savings for energy efficiency and conservation
89 measures and post it on the department's website;
90 providing an appropriation from the Florida Public
91 Service Regulatory Trust Fund for the purpose of the
92 Public Service Commission, in consultation with the
93 Department of Agriculture and Consumer Services, to
94 contract for an independent evaluation of the Florida
95 Energy Efficiency and Conservation Act; requiring
96 reports to the Legislature and the Executive Office of
97 the Governor; providing an effective date.

98

99 Be It Enacted by the Legislature of the State of Florida:

100

101 Section 1. Subsection (2) of section 186.801, Florida
102 Statutes, is amended to read:

103 186.801 Ten-year site plans.—

104 (2) Within 9 months after the receipt of the proposed plan,
105 the commission shall make a preliminary study of such plan and
106 classify it as "suitable" or "unsuitable." The commission may
107 suggest alternatives to the plan. All findings of the commission
108 shall be made available to the Department of Environmental
109 Protection for its consideration at any subsequent electrical
110 power plant site certification proceedings. It is recognized
111 that 10-year site plans submitted by an electric utility are
112 tentative information for planning purposes only and may be
113 amended at any time at the discretion of the utility upon
114 written notification to the commission. A complete application
115 for certification of an electrical power plant site under
116 chapter 403, when such site is not designated in the current 10-

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117 year site plan of the applicant, shall constitute an amendment
118 to the 10-year site plan. In its preliminary study of each 10-
119 year site plan, the commission shall consider such plan as a
120 planning document and shall review:

121 (a) The need, including the need as determined by the
122 commission, for electrical power in the area to be served.

123 (b) The effect on fuel diversity within the state.

124 (c) The anticipated environmental impact of each proposed
125 electrical power plant site.

126 (d) Possible alternatives to the proposed plan.

127 (e) The views of appropriate local, state, and federal
128 agencies, including the views of the appropriate water
129 management district as to the availability of water and its
130 recommendation as to the use by the proposed plant of salt water
131 or fresh water for cooling purposes.

132 (f) The extent to which the plan is consistent with the
133 state comprehensive plan.

134 (g) The plan with respect to the information of the state
135 on energy availability and consumption.

136 (h) The amount of renewable energy resources the provider
137 produces or purchases.

138 (i) The amount of renewable energy resources the provider
139 plans to produce or purchase over the 10-year planning horizon
140 and the means by which the production or purchases will be
141 achieved.

142 (j) A statement describing how the production and purchase
143 of renewable energy resources impact the provider's present and
144 future capacity and energy needs.

145 Section 2. Paragraph (d) of subsection (2) of section

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146 212.055, Florida Statutes, is amended to read:

147 212.055 Discretionary sales surtaxes; legislative intent;
148 authorization and use of proceeds.—It is the legislative intent
149 that any authorization for imposition of a discretionary sales
150 surtax shall be published in the Florida Statutes as a
151 subsection of this section, irrespective of the duration of the
152 levy. Each enactment shall specify the types of counties
153 authorized to levy; the rate or rates which may be imposed; the
154 maximum length of time the surtax may be imposed, if any; the
155 procedure which must be followed to secure voter approval, if
156 required; the purpose for which the proceeds may be expended;
157 and such other requirements as the Legislature may provide.
158 Taxable transactions and administrative procedures shall be as
159 provided in s. 212.054.

160 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

161 (d) The proceeds of the surtax authorized by this
162 subsection and any accrued interest shall be expended by the
163 school district, within the county and municipalities within the
164 county, or, in the case of a negotiated joint county agreement,
165 within another county, to finance, plan, and construct
166 infrastructure; to acquire land for public recreation,
167 conservation, or protection of natural resources; to provide
168 loans, grants, or rebates to residential or commercial property
169 owners who make energy efficiency improvements to their
170 residential or commercial property, if a local government
171 ordinance authorizing such use is approved by referendum; or to
172 finance the closure of county-owned or municipally owned solid
173 waste landfills that have been closed or are required to be
174 closed by order of the Department of Environmental Protection.

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175 Any use of the proceeds or interest for purposes of landfill
176 closure before July 1, 1993, is ratified. The proceeds and any
177 interest may not be used for the operational expenses of
178 infrastructure, except that a county that has a population of
179 fewer than 75,000 and that is required to close a landfill may
180 use the proceeds or interest for long-term maintenance costs
181 associated with landfill closure. Counties, as defined in s.
182 125.011, and charter counties may, in addition, use the proceeds
183 or interest to retire or service indebtedness incurred for bonds
184 issued before July 1, 1987, for infrastructure purposes, and for
185 bonds subsequently issued to refund such bonds. Any use of the
186 proceeds or interest for purposes of retiring or servicing
187 indebtedness incurred for refunding bonds before July 1, 1999,
188 is ratified.

189 1. For the purposes of this paragraph, the term
190 "infrastructure" means:

191 a. Any fixed capital expenditure or fixed capital outlay
192 associated with the construction, reconstruction, or improvement
193 of public facilities that have a life expectancy of 5 or more
194 years and any related land acquisition, land improvement,
195 design, and engineering costs.

196 b. A fire department vehicle, an emergency medical service
197 vehicle, a sheriff's office vehicle, a police department
198 vehicle, or any other vehicle, and the equipment necessary to
199 outfit the vehicle for its official use or equipment that has a
200 life expectancy of at least 5 years.

201 c. Any expenditure for the construction, lease, or
202 maintenance of, or provision of utilities or security for,
203 facilities, as defined in s. 29.008.

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204 d. Any fixed capital expenditure or fixed capital outlay
205 associated with the improvement of private facilities that have
206 a life expectancy of 5 or more years and that the owner agrees
207 to make available for use on a temporary basis as needed by a
208 local government as a public emergency shelter or a staging area
209 for emergency response equipment during an emergency officially
210 declared by the state or by the local government under s.
211 252.38. Such improvements are limited to those necessary to
212 comply with current standards for public emergency evacuation
213 shelters. The owner must enter into a written contract with the
214 local government providing the improvement funding to make the
215 private facility available to the public for purposes of
216 emergency shelter at no cost to the local government for a
217 minimum of 10 years after completion of the improvement, with
218 the provision that the obligation will transfer to any
219 subsequent owner until the end of the minimum period.

220 e. Any land acquisition expenditure for a residential
221 housing project in which at least 30 percent of the units are
222 affordable to individuals or families whose total annual
223 household income does not exceed 120 percent of the area median
224 income adjusted for household size, if the land is owned by a
225 local government or by a special district that enters into a
226 written agreement with the local government to provide such
227 housing. The local government or special district may enter into
228 a ground lease with a public or private person or entity for
229 nominal or other consideration for the construction of the
230 residential housing project on land acquired pursuant to this
231 sub-subparagraph.

232 2. For the purposes of this paragraph, the term "energy

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233 efficiency improvement" means any energy conservation and
234 efficiency improvement that reduces consumption through
235 conservation or a more efficient use of electricity, natural
236 gas, propane, or other forms of energy on the property,
237 including, but not limited to, air sealing; installation of
238 insulation; installation of energy-efficient heating, cooling,
239 or ventilation systems; installation of solar panels; building
240 modifications to increase the use of daylight or shade;
241 replacement of windows; installation of energy controls or
242 energy recovery systems; installation of electric vehicle
243 charging equipment; and installation of efficient lighting
244 equipment.

245 ~~3.2.~~ Notwithstanding any other provision of this
246 subsection, a local government infrastructure surtax imposed or
247 extended after July 1, 1998, may allocate up to 15 percent of
248 the surtax proceeds for deposit in a trust fund within the
249 county's accounts created for the purpose of funding economic
250 development projects having a general public purpose of
251 improving local economies, including the funding of operational
252 costs and incentives related to economic development. The ballot
253 statement must indicate the intention to make an allocation
254 under the authority of this subparagraph.

255 Section 3. Paragraph (hhh) is added to subsection (7) of
256 section 212.08, Florida Statutes, to read:

257 212.08 Sales, rental, use, consumption, distribution, and
258 storage tax; specified exemptions.—The sale at retail, the
259 rental, the use, the consumption, the distribution, and the
260 storage to be used or consumed in this state of the following
261 are hereby specifically exempt from the tax imposed by this

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262 chapter.

263 (7) MISCELLANEOUS EXEMPTIONS.—Exemptions provided to any
264 entity by this chapter do not inure to any transaction that is
265 otherwise taxable under this chapter when payment is made by a
266 representative or employee of the entity by any means,
267 including, but not limited to, cash, check, or credit card, even
268 when that representative or employee is subsequently reimbursed
269 by the entity. In addition, exemptions provided to any entity by
270 this subsection do not inure to any transaction that is
271 otherwise taxable under this chapter unless the entity has
272 obtained a sales tax exemption certificate from the department
273 or the entity obtains or provides other documentation as
274 required by the department. Eligible purchases or leases made
275 with such a certificate must be in strict compliance with this
276 subsection and departmental rules, and any person who makes an
277 exempt purchase with a certificate that is not in strict
278 compliance with this subsection and the rules is liable for and
279 shall pay the tax. The department may adopt rules to administer
280 this subsection.

281 (hhh) Equipment, machinery, and other materials for
282 renewable energy technologies.—

283 1. As used in this paragraph, the term:

284 a. "Biodiesel" means the mono-alkyl esters of long-chain
285 fatty acids derived from plant or animal matter for use as a
286 source of energy and meeting the specifications for biodiesel
287 and biodiesel blends with petroleum products as adopted by rule
288 of the Department of Agriculture and Consumer Services.

289 "Biodiesel" may refer to biodiesel blends designated BXX, where
290 XX represents the volume percentage of biodiesel fuel in the

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291 blend.

292 b. "Ethanol" means an anhydrous denatured alcohol produced
293 by the conversion of carbohydrates meeting the specifications
294 for fuel ethanol and fuel ethanol blends with petroleum products
295 as adopted by rule of the Department of Agriculture and Consumer
296 Services. "Ethanol" may refer to fuel ethanol blends designated
297 EXX, where XX represents the volume percentage of fuel ethanol
298 in the blend.

299 c. "Renewable fuel" means a fuel produced from biomass that
300 is used to replace or reduce the quantity of fossil fuel present
301 in motor fuel or diesel fuel. "Biomass" means biomass as defined
302 in s. 366.91, "motor fuel" means motor fuel as defined in s.
303 206.01, and "diesel fuel" means diesel fuel as defined in s.
304 206.86.

305 2. The sale or use in the state of the following is exempt
306 from the tax imposed by this chapter. Materials used in the
307 distribution of biodiesel (B10-B100), ethanol (E10-E100), and
308 other renewable fuels, including fueling infrastructure,
309 transportation, and storage, up to a limit of \$1 million in tax
310 each state fiscal year for all taxpayers. Gasoline fueling
311 station pump retrofits for biodiesel (B10-B100), ethanol (E10-
312 E100), and other renewable fuel distribution qualify for the
313 exemption provided in this paragraph.

314 3. The Department of Agriculture and Consumer Services
315 shall provide to the department a list of items eligible for the
316 exemption provided in this paragraph.

317 4.a. The exemption provided in this paragraph shall be
318 available to a purchaser only through a refund of previously
319 paid taxes. An eligible item is subject to refund one time. A

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320 person who has received a refund on an eligible item shall
321 notify the next purchaser of the item that the item is no longer
322 eligible for a refund of paid taxes. The notification shall be
323 provided to each subsequent purchaser on the sales invoice or
324 other proof of purchase.

325 b. To be eligible to receive the exemption provided in this
326 paragraph, a purchaser shall file an application with the
327 Department of Agriculture and Consumer Services. The application
328 shall be developed by the Department of Agriculture and Consumer
329 Services, in consultation with the department, and shall
330 require:

331 (I) The name and address of the person claiming the refund.

332 (II) A specific description of the purchase for which a
333 refund is sought, including, when applicable, a serial number or
334 other permanent identification number.

335 (III) The sales invoice or other proof of purchase showing
336 the amount of sales tax paid, the date of purchase, and the name
337 and address of the sales tax dealer from whom the property was
338 purchased.

339 (IV) A sworn statement that the information provided is
340 accurate and that the requirements of this paragraph have been
341 met.

342 c. Within 30 days after receipt of an application, the
343 Department of Agriculture and Consumer Services shall review the
344 application and notify the applicant of any deficiencies. Upon
345 receipt of a completed application, the Department of
346 Agriculture and Consumer Services shall evaluate the application
347 for the exemption and issue a written certification that the
348 applicant is eligible for a refund or issue a written denial of

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349 such certification. The Department of Agriculture and Consumer
350 Services shall provide the department a copy of each
351 certification issued upon approval of an application.

352 d. Each certified applicant is responsible for applying for
353 the refund and forwarding the certification that the applicant
354 is eligible to the department within 6 months after
355 certification by the Department of Agriculture and Consumer
356 Services.

357 e. A refund approved pursuant to this paragraph shall be
358 made within 30 days after formal approval by the department.

359 f. The Department of Agriculture and Consumer Services may
360 adopt by rule the form for the application for a certificate,
361 requirements for the content and format of information submitted
362 to the Department of Agriculture and Consumer Services in
363 support of the application, other procedural requirements, and
364 criteria by which the application will be determined. The
365 Department of Agriculture and Consumer Services may adopt other
366 rules pursuant to ss. 120.536(1) and 120.54 to administer this
367 paragraph, including rules establishing additional forms and
368 procedures for claiming the exemption.

369 g. The Department of Agriculture and Consumer Services
370 shall be responsible for ensuring that the total amount of the
371 exemptions authorized do not exceed the limits specified in
372 subparagraph 2.

373 5. Approval of the exemptions under this paragraph is on a
374 first-come, first-served basis, based upon the date complete
375 applications are received by the Department of Agriculture and
376 Consumer Services. Incomplete placeholder applications shall not
377 be accepted and shall not secure a place in the first-come,

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378 first-served application line. The Department of Agriculture and
379 Consumer Services shall determine and publish on its website on
380 a regular basis the amount of sales tax funds remaining in each
381 fiscal year.

382 6. This paragraph expires July 1, 2016.

383 Section 4. Subsections (1), (2), (4), (6), (7), and (8) of
384 section 220.192, Florida Statutes, are amended to read:

385 220.192 Renewable energy technologies investment tax
386 credit.—

387 (1) DEFINITIONS.—For purposes of this section, the term:

388 (a) "Biodiesel" means biodiesel as defined in s.

389 212.08(7)(hhh) former s. 212.08(7)(ccc).

390 (b) "Corporation" includes a general partnership, limited
391 partnership, limited liability company, unincorporated business,
392 or other business entity, including entities taxed as
393 partnerships for federal income tax purposes.

394 (c) "Eligible costs" means:

395 ~~1. Seventy-five percent of all capital costs, operation and~~
396 ~~maintenance costs, and research and development costs incurred~~
397 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$3~~
398 ~~million per state fiscal year for all taxpayers, in connection~~
399 ~~with an investment in hydrogen-powered vehicles and hydrogen~~
400 ~~vehicle fueling stations in the state, including, but not~~
401 ~~limited to, the costs of constructing, installing, and equipping~~
402 ~~such technologies in the state.~~

403 ~~2. Seventy-five percent of all capital costs, operation and~~
404 ~~maintenance costs, and research and development costs incurred~~
405 ~~between July 1, 2006, and June 30, 2010, up to a limit of \$1.5~~
406 ~~million per state fiscal year for all taxpayers, and limited to~~

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407 ~~a maximum of \$12,000 per fuel cell, in connection with an~~
408 ~~investment in commercial stationary hydrogen fuel cells in the~~
409 ~~state, including, but not limited to, the costs of constructing,~~
410 ~~installing, and equipping such technologies in the state.~~

411 3. 75 ~~Seventy-five~~ percent of all capital costs, operation
412 and maintenance costs, and research and development costs
413 incurred between July 1, 2012 ~~2006~~, and June 30, 2016 ~~2010~~, not
414 to exceed \$1 million per state fiscal year for each taxpayer and
415 up to a limit of \$10 ~~\$6.5~~ million per state fiscal year for all
416 taxpayers, in connection with an investment in the production,
417 storage, and distribution of biodiesel (B10-B100), and ethanol
418 (E10-E100), and other renewable fuel in the state, including the
419 costs of constructing, installing, and equipping such
420 technologies in the state. Gasoline fueling station pump
421 retrofits for biodiesel (B10-B100), ethanol (E10-E100), and
422 other renewable fuel distribution qualify as an eligible cost
423 under this section ~~subparagraph~~.

424 (d) "Ethanol" means ethanol as defined in s. 212.08(7)(hhh)
425 ~~former s. 212.08(7)(ccc)~~.

426 (e) "Renewable fuel" means a fuel produced from biomass
427 that is used to replace or reduce the quantity of fossil fuel
428 present in motor fuel or diesel fuel. "Biomass" means biomass as
429 defined in s. 366.91, "motor fuel" means motor fuel as defined
430 in s. 206.01, and "diesel fuel" means diesel fuel as defined in
431 s. 206.86.

432 ~~(e) "Hydrogen fuel cell" means hydrogen fuel cell as~~
433 ~~defined in former s. 212.08(7)(ccc).~~

434 (f) "Taxpayer" includes a corporation as defined in
435 paragraph (b) or s. 220.03.

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436 (2) TAX CREDIT.—For tax years beginning on or after January
437 1, 2013 ~~2007~~, a credit against the tax imposed by this chapter
438 shall be granted in an amount equal to the eligible costs.
439 Credits may be used in tax years beginning January 1, 2013 ~~2007~~,
440 and ending December 31, 2016 ~~2010~~, after which the credit shall
441 expire. If the credit is not fully used in any one tax year
442 because of insufficient tax liability on the part of the
443 corporation, the unused amount may be carried forward and used
444 in tax years beginning January 1, 2013 ~~2007~~, and ending December
445 31, 2018 ~~2012~~, after which the credit carryover expires and may
446 not be used. A taxpayer that files a consolidated return in this
447 state as a member of an affiliated group under s. 220.131(1) may
448 be allowed the credit on a consolidated return basis up to the
449 amount of tax imposed upon the consolidated group. Any eligible
450 cost for which a credit is claimed and which is deducted or
451 otherwise reduces federal taxable income shall be added back in
452 computing adjusted federal income under s. 220.13.

453 (4) TAXPAYER APPLICATION PROCESS.—To claim a credit under
454 this section, each taxpayer must apply to the Department of
455 Agriculture and Consumer Services for an allocation of each type
456 of annual credit by the date established by the Department of
457 Agriculture and Consumer Services. The application form adopted
458 by rule of the Department of Agriculture and Consumer Services
459 must include an affidavit from each taxpayer certifying that all
460 information contained in the application, including all records
461 of eligible costs claimed as the basis for the tax credit, are
462 true and correct. Approval of the credits under this section is
463 on a first-come, first-served basis, based upon the date
464 complete applications are received by the Department of

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465 Agriculture and Consumer Services. A taxpayer must submit only
466 one complete application based upon eligible costs incurred
467 within a particular state fiscal year. Incomplete placeholder
468 applications will not be accepted and will not secure a place in
469 the first-come, first-served application line. If a taxpayer
470 does not receive a tax credit allocation due to the exhaustion
471 of the annual tax credit authorizations, then such taxpayer may
472 reapply in the following year for those eligible costs and will
473 have priority over other applicants for the allocation of
474 credits.

475 (6) TRANSFERABILITY OF CREDIT.—

476 (a) For tax years beginning on or after January 1, 2014
477 ~~2009~~, any corporation or subsequent transferee allowed a tax
478 credit under this section may transfer the credit, in whole or
479 in part, to any taxpayer by written agreement without
480 transferring any ownership interest in the property generating
481 the credit or any interest in the entity owning such property.
482 The transferee is entitled to apply the credits against the tax
483 with the same effect as if the transferee had incurred the
484 eligible costs.

485 (b) To perfect the transfer, the transferor shall provide
486 the Department of Revenue with a written transfer statement
487 notifying the Department of Revenue of the transferor's intent
488 to transfer the tax credits to the transferee; the date the
489 transfer is effective; the transferee's name, address, and
490 federal taxpayer identification number; the tax period; and the
491 amount of tax credits to be transferred. The Department of
492 Revenue shall, upon receipt of a transfer statement conforming
493 to the requirements of this section, provide the transferee with

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494 a certificate reflecting the tax credit amounts transferred. A
495 copy of the certificate must be attached to each tax return for
496 which the transferee seeks to apply such tax credits.

497 (c) A tax credit authorized under this section that is held
498 by a corporation and not transferred under this subsection shall
499 be passed through to the taxpayers designated as partners,
500 members, or owners, respectively, in the manner agreed to by
501 such persons regardless of whether such partners, members, or
502 owners are allocated or allowed any portion of the federal
503 energy tax credit for the eligible costs. A corporation that
504 passes the credit through to a partner, member, or owner must
505 comply with the notification requirements described in paragraph
506 (b). The partner, member, or owner must attach a copy of the
507 certificate to each tax return on which the partner, member, or
508 owner claims any portion of the credit.

509 (7) RULES.—The Department of Revenue and the Department of
510 Agriculture and Consumer Services shall have the authority to
511 adopt rules pursuant to ss. 120.536(1) and 120.54 to administer
512 this section, including rules relating to:

513 (a) The forms required to claim a tax credit under this
514 section, the requirements and basis for establishing an
515 entitlement to a credit, and the examination and audit
516 procedures required to administer this section.

517 (b) The implementation and administration of the provisions
518 allowing a transfer of a tax credit, including rules prescribing
519 forms, reporting requirements, and specific procedures,
520 guidelines, and requirements necessary to transfer a tax credit.

521 (8) PUBLICATION.—The Department of Agriculture and Consumer
522 Services shall determine and publish on its website on a regular

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523 basis the amount of available tax credits remaining in each
524 fiscal year.

525 Section 5. Section 220.193, Florida Statutes, is amended to
526 read:

527 220.193 Florida renewable energy production credit.—

528 (1) The purpose of this section is to encourage the
529 development and expansion of facilities that produce renewable
530 energy in Florida.

531 (2) As used in this section, the term:

532 (a) "Commission" means ~~shall mean~~ the Public Service
533 Commission.

534 (b) "Department" means ~~shall mean~~ the Department of
535 Revenue.

536 (c) "Expanded facility" means ~~shall mean~~ a Florida
537 renewable energy facility that increases its electrical
538 production and sale by more than 5 percent above the facility's
539 electrical production and sale during the 2011 ~~2005~~ calendar
540 year.

541 (d) "Florida renewable energy facility" means ~~shall mean~~ a
542 facility in the state that produces electricity for sale from
543 renewable energy, as defined in s. 377.803.

544 (e) "New facility" means ~~shall mean~~ a Florida renewable
545 energy facility that is operationally placed in service after
546 May 1, 2006. "New facility" includes a Florida renewable energy
547 facility that has had an expansion operationally placed in
548 service after May 1, 2006, and whose cost exceeded 50 percent of
549 the assessed value of the facility immediately before the
550 expansion.

551 (f) "Sale" or "sold" includes the use of electricity by the

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552 producer of such electricity which decreases the amount of
553 electricity that the producer would otherwise have to purchase.

554 (g) "Taxpayer" includes a general partnership, limited
555 partnership, limited liability company, trust, or other
556 artificial entity in which a corporation, as defined in s.
557 220.03(1)(e), owns an interest and is taxed as a partnership or
558 is disregarded as a separate entity from the corporation under
559 this chapter.

560 (3) An annual credit against the tax imposed by this
561 section shall be allowed to a taxpayer, based on the taxpayer's
562 production and sale of electricity from a new or expanded
563 Florida renewable energy facility. For a new facility, the
564 credit shall be based on the taxpayer's sale of the facility's
565 entire electrical production. For an expanded facility, the
566 credit shall be based on the increases in the facility's
567 electrical production that are achieved after May 1, 2012 ~~2006~~.

568 (a) The credit shall be \$0.01 for each kilowatt-hour of
569 electricity produced and sold by the taxpayer to an unrelated
570 party during a given tax year.

571 (b) The credit may be claimed for electricity produced and
572 sold on or after January 1, 2013 ~~2007~~. Beginning in 2014 ~~2008~~
573 and continuing until 2017 ~~2011~~, each taxpayer claiming a credit
574 under this section must first apply to the department by
575 February 1 of each year for an allocation of available credit.
576 The department, in consultation with the commission, shall
577 develop an application form. The application form shall, at a
578 minimum, require a sworn affidavit from each taxpayer certifying
579 the increase in production and sales that form the basis of the
580 application and certifying that all information contained in the

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581 application is true and correct.

582 (c) If the amount of credits applied for each year exceeds
583 \$5 million, the department shall award credits to qualified
584 applicants based on the following priority: ~~to each applicant a~~
585 ~~prorated amount based on each applicant's increased production~~
586 ~~and sales and the increased production and sales of all~~
587 ~~applicants.~~

588 1. An applicant who places a new facility in operation
589 after May 1, 2012, shall be granted credits first, up to a
590 maximum of \$250,000 each, with remaining credits to be granted
591 pursuant to subparagraph 3., but if there are insufficient funds
592 authorized to grant all such credits, the credits granted under
593 this subparagraph shall be prorated based upon each applicant's
594 qualified production and sales as a percentage of total
595 qualified production and sales of all applicants in this
596 category for the year.

597 2. An applicant who does not qualify under subparagraph 1.
598 but who claims a credit of \$50,000 or less shall be granted
599 credits next, and if there are insufficient funds authorized to
600 grant all such credits, the credits shall be prorated based upon
601 each applicant's qualified production and sales as a percentage
602 of total qualified production and sales of all applicants in
603 this category for the year.

604 3. An applicant who does not qualify under subparagraph 1.
605 or subparagraph 2. and an applicant whose credits have not been
606 fully awarded under subparagraph 1. shall be awarded credits
607 from remaining authorized funds, and if there are insufficient
608 authorized funds to grant all such remaining credits, the
609 credits shall be prorated based upon each applicant's remaining

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610 claims for qualified production and sales as a percentage of
611 total remaining claims for qualified production and sales of all
612 applicants in this category for the year.

613 (d) If the credit granted pursuant to this section is not
614 fully used in one year because of insufficient tax liability on
615 the part of the taxpayer, the unused amount may be carried
616 forward for a period not to exceed 5 years. The carryover credit
617 may be used in a subsequent year when the tax imposed by this
618 chapter for such year exceeds the credit for such year, after
619 applying the other credits and unused credit carryovers in the
620 order provided in s. 220.02(8).

621 (e) A taxpayer that files a consolidated return in this
622 state as a member of an affiliated group under s. 220.131(1) may
623 be allowed the credit on a consolidated return basis up to the
624 amount of tax imposed upon the consolidated group.

625 (f)1. Tax credits that may be available under this section
626 to an entity eligible under this section may be transferred
627 after a merger or acquisition to the surviving or acquiring
628 entity and used in the same manner with the same limitations.

629 2. The entity or its surviving or acquiring entity as
630 described in subparagraph 1. may transfer any unused credit in
631 whole or in units of no less than 25 percent of the remaining
632 credit. The entity acquiring such credit may use it in the same
633 manner and with the same limitations under this section. Such
634 transferred credits may not be transferred again although they
635 may succeed to a surviving or acquiring entity subject to the
636 same conditions and limitations as described in this section.

637 3. In the event the credit provided for under this section
638 is reduced as a result of an examination or audit by the

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639 department, such tax deficiency shall be recovered from the
640 first entity or the surviving or acquiring entity to have
641 claimed such credit up to the amount of credit taken. Any
642 subsequent deficiencies shall be assessed against any entity
643 acquiring and claiming such credit, or in the case of multiple
644 succeeding entities in the order of credit succession.

645 (g) Notwithstanding any other provision of this section,
646 credits for the production and sale of electricity from a new or
647 expanded Florida renewable energy facility may be earned between
648 January 1, 2013 ~~2007~~, and June 30, 2016 ~~2010~~. The amount of tax
649 credits that may be granted to each taxpayer under this section
650 is limited to \$1 million per state fiscal year. The combined
651 total amount of tax credits which may be granted for all
652 taxpayers under this section is limited to \$5 million per state
653 fiscal year.

654 (h) A taxpayer claiming a credit under this section shall
655 be required to add back to net income that portion of its
656 business deductions claimed on its federal return paid or
657 incurred for the taxable year which is equal to the amount of
658 the credit allowable for the taxable year under this section.

659 (i) A taxpayer claiming credit under this section may not
660 claim a credit under s. 220.192. A taxpayer claiming credit
661 under s. 220.192 may not claim a credit under this section.

662 (j) When an entity treated as a partnership or a
663 disregarded entity under this chapter produces and sells
664 electricity from a new or expanded renewable energy facility,
665 the credit earned by such entity shall pass through in the same
666 manner as items of income and expense pass through for federal
667 income tax purposes. When an entity applies for the credit and

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668 the entity has received the credit by a pass-through, the
669 application must identify the taxpayer that passed the credit
670 through, all taxpayers that received the credit, and the
671 percentage of the credit that passes through to each recipient
672 and must provide other information that the department requires.

673 (k) A taxpayer's use of the credit granted pursuant to this
674 section does not reduce the amount of any credit available to
675 such taxpayer under s. 220.186.

676 (4) The department may adopt rules to implement and
677 administer this section, including rules prescribing forms, the
678 documentation needed to substantiate a claim for the tax credit,
679 and the specific procedures and guidelines for claiming the
680 credit.

681 (5) This section shall take effect upon becoming law and
682 shall apply to tax years beginning on and after January 1, 2013
683 ~~2007~~.

684 Section 6. Subsection (3) of section 255.257, Florida
685 Statutes, is amended to read:

686 255.257 Energy management; buildings occupied by state
687 agencies.—

688 (3) CONTENTS OF THE STATE ENERGY MANAGEMENT PLAN.—The
689 Department of Management Services, in coordination with the
690 Department of Agriculture and Consumer Services, shall further
691 develop the a state energy management plan consisting of, but
692 not limited to, the following elements:

- 693 (a) Data-gathering requirements;
694 (b) Building energy audit procedures;
695 (c) Uniform data analysis and reporting procedures;
696 (d) Employee energy education program measures;

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- 697 (e) Energy consumption reduction techniques;
698 (f) Training program for state agency energy management
699 coordinators; and
700 (g) Guidelines for building managers.
701

702 The plan shall include a description of actions that state
703 agencies shall take to reduce consumption of electricity and
704 nonrenewable energy sources used for space heating and cooling,
705 ventilation, lighting, water heating, and transportation.

706 Section 7. Paragraph (q) of subsection (2) of section
707 288.106, Florida Statutes, is amended to read:

708 288.106 Tax refund program for qualified target industry
709 businesses.—

710 (2) DEFINITIONS.—As used in this section:

711 (q) "Target industry business" means a corporate
712 headquarters business or any business that is engaged in one of
713 the target industries identified pursuant to the following
714 criteria developed by the department in consultation with
715 Enterprise Florida, Inc.:

716 1. Future growth.—Industry forecasts should indicate strong
717 expectation for future growth in both employment and output,
718 according to the most recent available data. Special
719 consideration should be given to businesses that export goods
720 to, or provide services in, international markets and businesses
721 that replace domestic and international imports of goods or
722 services.

723 2. Stability.—The industry should not be subject to
724 periodic layoffs, whether due to seasonality or sensitivity to
725 volatile economic variables such as weather. The industry should

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726 also be relatively resistant to recession, so that the demand
727 for products of this industry is not typically subject to
728 decline during an economic downturn.

729 3. High wage.—The industry should pay relatively high wages
730 compared to statewide or area averages.

731 4. Market and resource independent.—The location of
732 industry businesses should not be dependent on Florida markets
733 or resources as indicated by industry analysis, except for
734 businesses in the renewable energy industry.

735 5. Industrial base diversification and strengthening.—The
736 industry should contribute toward expanding or diversifying the
737 state's or area's economic base, as indicated by analysis of
738 employment and output shares compared to national and regional
739 trends. Special consideration should be given to industries that
740 strengthen regional economies by adding value to basic products
741 or building regional industrial clusters as indicated by
742 industry analysis. Special consideration should also be given to
743 the development of strong industrial clusters that include
744 defense and homeland security businesses.

745 6. Positive economic impact.—The industry is expected to
746 have strong positive economic impacts on or benefits to the
747 state or regional economies. Special consideration should be
748 given to industries that facilitate the development of the state
749 as a hub for domestic and global trade and logistics.

750

751 The term does not include any business engaged in retail
752 industry activities; any electrical utility company as defined
753 in s. 366.02(2); any phosphate or other solid minerals
754 severance, mining, or processing operation; any oil or gas

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755 exploration or production operation; or any business subject to
756 regulation by the Division of Hotels and Restaurants of the
757 Department of Business and Professional Regulation. Any business
758 within NAICS code 5611 or 5614, office administrative services
759 and business support services, respectively, may be considered a
760 target industry business only after the local governing body and
761 Enterprise Florida, Inc., make a determination that the
762 community where the business may locate has conditions affecting
763 the fiscal and economic viability of the local community or
764 area, including but not limited to, factors such as low per
765 capita income, high unemployment, high underemployment, and a
766 lack of year-round stable employment opportunities, and such
767 conditions may be improved by the location of such a business to
768 the community. By January 1 of every 3rd year, beginning January
769 1, 2011, the department, in consultation with Enterprise
770 Florida, Inc., economic development organizations, the State
771 University System, local governments, employee and employer
772 organizations, market analysts, and economists, shall review
773 and, as appropriate, revise the list of such target industries
774 and submit the list to the Governor, the President of the
775 Senate, and the Speaker of the House of Representatives.

776 Section 8. Section 366.92, Florida Statutes, is amended to
777 read:

778 366.92 Florida renewable energy policy.—

779 (1) It is the intent of the Legislature to promote the
780 development of renewable energy; protect the economic viability
781 of Florida's existing renewable energy facilities; diversify the
782 types of fuel used to generate electricity in Florida; lessen
783 Florida's dependence on natural gas and fuel oil for the

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784 production of electricity; minimize the volatility of fuel
785 costs; encourage investment within the state; improve
786 environmental conditions; and, at the same time, minimize the
787 costs of power supply to electric utilities and their customers.

788 (2) As used in this section, the term:

789 ~~(a) "Florida renewable energy resources" means renewable~~
790 ~~energy, as defined in s. 377.803, that is produced in Florida.~~

791 (a)~~(b)~~ "Provider" means a "utility" as defined in s.
792 366.8255(1)(a).

793 (b)~~(e)~~ "Renewable energy" means renewable energy as defined
794 in s. 366.91(2)(d).

795 ~~(d) "Renewable energy credit" or "REC" means a product that~~
796 ~~represents the unbundled, separable, renewable attribute of~~
797 ~~renewable energy produced in Florida and is equivalent to 1~~
798 ~~megawatt-hour of electricity generated by a source of renewable~~
799 ~~energy located in Florida.~~

800 ~~(e) "Renewable portfolio standard" or "RPS" means the~~
801 ~~minimum percentage of total annual retail electricity sales by a~~
802 ~~provider to consumers in Florida that shall be supplied by~~
803 ~~renewable energy produced in Florida.~~

804 ~~(3) The commission shall adopt rules for a renewable~~
805 ~~portfolio standard requiring each provider to supply renewable~~
806 ~~energy to its customers directly, by procuring, or through~~
807 ~~renewable energy credits. In developing the RPS rule, the~~
808 ~~commission shall consult the Department of Environmental~~
809 ~~Protection and the Department of Agriculture and Consumer~~
810 ~~Services. The rule shall not be implemented until ratified by~~
811 ~~the Legislature. The commission shall present a draft rule for~~
812 ~~legislative consideration by February 1, 2009.~~

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813 ~~(a) In developing the rule, the commission shall evaluate~~
814 ~~the current and forecasted levelized cost in cents per kilowatt~~
815 ~~hour through 2020 and current and forecasted installed capacity~~
816 ~~in kilowatts for each renewable energy generation method through~~
817 ~~2020.~~

818 ~~(b) The commission's rule:~~

819 ~~1. Shall include methods of managing the cost of compliance~~
820 ~~with the renewable portfolio standard, whether through direct~~
821 ~~supply or procurement of renewable power or through the purchase~~
822 ~~of renewable energy credits. The commission shall have~~
823 ~~rulemaking authority for providing annual cost recovery and~~
824 ~~incentive-based adjustments to authorized rates of return on~~
825 ~~common equity to providers to incentivize renewable energy.~~
826 ~~Notwithstanding s. 366.91(3) and (4), upon the ratification of~~
827 ~~the rules developed pursuant to this subsection, the commission~~
828 ~~may approve projects and power sales agreements with renewable~~
829 ~~power producers and the sale of renewable energy credits needed~~
830 ~~to comply with the renewable portfolio standard. In the event of~~
831 ~~any conflict, this subparagraph shall supersede s. 366.91(3) and~~
832 ~~(4). However, nothing in this section shall alter the obligation~~
833 ~~of each public utility to continuously offer a purchase contract~~
834 ~~to producers of renewable energy.~~

835 ~~2. Shall provide for appropriate compliance measures and~~
836 ~~the conditions under which noncompliance shall be excused due to~~
837 ~~a determination by the commission that the supply of renewable~~
838 ~~energy or renewable energy credits was not adequate to satisfy~~
839 ~~the demand for such energy or that the cost of securing~~
840 ~~renewable energy or renewable energy credits was cost~~
841 ~~prohibitive.~~

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842 ~~3. May provide added weight to energy provided by wind and~~
843 ~~solar photovoltaic over other forms of renewable energy, whether~~
844 ~~directly supplied or procured or indirectly obtained through the~~
845 ~~purchase of renewable energy credits.~~

846 ~~4. Shall determine an appropriate period of time for which~~
847 ~~renewable energy credits may be used for purposes of compliance~~
848 ~~with the renewable portfolio standard.~~

849 ~~5. Shall provide for monitoring of compliance with and~~
850 ~~enforcement of the requirements of this section.~~

851 ~~6. Shall ensure that energy credited toward compliance with~~
852 ~~the requirements of this section is not credited toward any~~
853 ~~other purpose.~~

854 ~~7. Shall include procedures to track and account for~~
855 ~~renewable energy credits, including ownership of renewable~~
856 ~~energy credits that are derived from a customer-owned renewable~~
857 ~~energy facility as a result of any action by a customer of an~~
858 ~~electric power supplier that is independent of a program~~
859 ~~sponsored by the electric power supplier.~~

860 ~~8. Shall provide for the conditions and options for the~~
861 ~~repeal or alteration of the rule in the event that new~~
862 ~~provisions of federal law supplant or conflict with the rule.~~

863 ~~(c) Beginning on April 1 of the year following final~~
864 ~~adoption of the commission's renewable portfolio standard rule,~~
865 ~~each provider shall submit a report to the commission describing~~
866 ~~the steps that have been taken in the previous year and the~~
867 ~~steps that will be taken in the future to add renewable energy~~
868 ~~to the provider's energy supply portfolio. The report shall~~
869 ~~state whether the provider was in compliance with the renewable~~
870 ~~portfolio standard during the previous year and how it will~~

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871 ~~comply with the renewable portfolio standard in the upcoming~~
872 ~~year.~~

873 (3)~~(4)~~ In order to demonstrate the feasibility and
874 viability of clean energy systems, the commission shall provide
875 for full cost recovery under the environmental cost-recovery
876 clause of all reasonable and prudent costs incurred by a
877 provider for renewable energy projects that are zero greenhouse
878 gas emitting at the point of generation, up to a total of 110
879 megawatts statewide, and for which the provider has secured
880 necessary land, zoning permits, and transmission rights within
881 the state. Such costs shall be deemed reasonable and prudent for
882 purposes of cost recovery so long as the provider has used
883 reasonable and customary industry practices in the design,
884 procurement, and construction of the project in a cost-effective
885 manner appropriate to the location of the facility. The provider
886 shall report to the commission as part of the cost-recovery
887 proceedings the construction costs, in-service costs, operating
888 and maintenance costs, hourly energy production of the renewable
889 energy project, and any other information deemed relevant by the
890 commission. Any provider constructing a clean energy facility
891 pursuant to this section shall file for cost recovery no later
892 than July 1, 2009.

893 (4)~~(5)~~ Each municipal electric utility and rural electric
894 cooperative shall develop standards for the promotion,
895 encouragement, and expansion of the use of renewable energy
896 resources and energy conservation and efficiency measures. On or
897 before April 1, 2009, and annually thereafter, each municipal
898 electric utility and electric cooperative shall submit to the
899 commission a report that identifies such standards.

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900 ~~(5)(6)~~ Nothing in this section shall be construed to impede
901 or impair terms and conditions of existing contracts.

902 ~~(6)(7)~~ The commission may adopt rules to administer and
903 implement the provisions of this section.

904 Section 9. Section 366.94, Florida Statutes, is created to
905 read:

906 366.94 Electric vehicle charging stations.-

907 (1) The provision of electric vehicle charging to the
908 public by a nonutility is not the retail sale of electricity for
909 the purposes of this chapter. The rates, terms, and conditions
910 of electric vehicle charging services by a nonutility are not
911 subject to regulation under this chapter. This section does not
912 affect the ability of individuals, businesses, or governmental
913 entities to acquire, install, or use an electric vehicle charger
914 for their own vehicles.

915 (2) The Department of Agriculture and Consumer Services
916 shall adopt rules to provide definitions, methods of sale,
917 labeling requirements, and price-posting requirements for
918 electric vehicle charging stations to allow for consistency for
919 consumers and the industry.

920 (3) (a) It is unlawful for a person to stop, stand, or park
921 a vehicle that is not capable of using an electrical recharging
922 station within any parking space specifically designated for
923 charging an electric vehicle.

924 (b) If a law enforcement officer finds a motor vehicle in
925 violation of this subsection, the officer or specialist shall
926 charge the operator or other person in charge of the vehicle in
927 violation with a noncriminal traffic infraction, punishable as
928 provided in s. 316.008(4) or s. 318.18.

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929 (4) The Public Service Commission is directed to conduct a
930 study of the potential effects of public charging stations and
931 privately owned electric vehicle charging on both energy
932 consumption and the impact on the electric grid in the state.
933 The Public Service Commission shall also investigate the
934 feasibility of using off-grid solar photovoltaic power as a
935 source of electricity for the electric vehicle charging
936 stations. The commission shall submit the results of the study
937 to the President of the Senate, the Speaker of the House of
938 Representatives, and the Executive Office of the Governor by
939 December 31, 2012.

940 Section 10. Subsection (1) of section 526.203, Florida
941 Statutes, is amended, and subsections (5) and (6) are added to
942 that section, to read:

943 526.203 Renewable fuel standard.—

944 (1) DEFINITIONS.—As used in this act:

945 (a) "Alternative fuel" means a fuel produced from biomass,
946 as defined in s. 366.91, that is used to replace or reduce the
947 quantity of fossil fuel present in a petroleum fuel that meets
948 the specifications as adopted by the department.

949 (b) ~~(a)~~ "Blender," "importer," "terminal supplier," and
950 "wholesaler" are defined as provided in s. 206.01.

951 (c) ~~(b)~~ "Blended gasoline" means a mixture of 90 to 91
952 percent gasoline and 9 to 10 percent fuel ethanol or other
953 alternative fuel, by volume, that meets the specifications as
954 adopted by the department. The fuel ethanol or other alternative
955 fuel portion may be derived from any agricultural source.

956 (d) ~~(e)~~ "Fuel ethanol" means an anhydrous denatured alcohol
957 produced by the conversion of carbohydrates that meets the

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958 specifications as adopted by the department.

959 (e)~~(d)~~ "Unblended gasoline" means gasoline that has not
960 been blended with fuel ethanol or other alternative fuel and
961 that meets the specifications as adopted by the department.

962 (5) This section does not prohibit a retail dealer as
963 defined in s. 206.01 from selling or offering to sell unblended
964 gasoline.

965 (6) The Department of Agriculture and Consumer Services
966 shall compile a list of retail fuel stations that sell or offer
967 to sell unblended gasoline. This information shall be compiled
968 by the department as part of its routine retail fuel station
969 inspections, authorized under s. 525.07, and from information
970 provided voluntarily by retail dealers. The Department of
971 Agriculture and Consumer Services shall provide this information
972 on its website to inform consumers of the options available for
973 unblended gasoline.

974 Section 11. Subsection (4) of section 581.083, Florida
975 Statutes, is amended to read:

976 581.083 Introduction or release of plant pests, noxious
977 weeds, or organisms affecting plant life; cultivation of
978 nonnative plants; special permit and security required.—

979 (4) A person may not cultivate a nonnative plant, algae, or
980 blue-green algae, including a genetically engineered plant,
981 algae, or blue-green algae ~~or a plant that has been introduced,~~
982 ~~for purposes of fuel production or purposes other than~~
983 ~~agriculture~~ in plantings greater in size than 2 contiguous
984 acres, except under a special permit issued by the department
985 through the division, which is the sole agency responsible for
986 issuing such special permits. A permit is not required to

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987 cultivate any plant or group of plants that, based on experience
988 or research data, does not pose a threat of becoming an invasive
989 species and is commonly grown in this state for the purpose of
990 human food consumption, commercial feed, feedstuff, forage for
991 livestock, nursery stock, or silviculture. The department is
992 authorized to adopt additional exemptions to the permitting
993 requirements of this section if the department determines, after
994 consulting with the Institute of Food and Agricultural Sciences
995 at the University of Florida, that based on experience or
996 research data, the nonnative plant, algae, or blue-green algae
997 does not pose a threat of becoming an invasive species or a pest
998 of plants or native fauna under conditions in this state and
999 subsequently exempts the plant or group of plants by rule ~~Such a~~
1000 ~~permit shall not be required if the department determines, in~~
1001 ~~conjunction with the Institute of Food and Agricultural Sciences~~
1002 ~~at the University of Florida, that the plant is not invasive and~~
1003 ~~subsequently exempts the plant by rule.~~

1004 (a)1. Each application for a special permit must be
1005 accompanied by a fee as described in subsection (2) and proof
1006 that the applicant has obtained, on a form approved by the
1007 department, ~~a bond in the form approved by the department and~~
1008 issued by a surety company admitted to do business in this state
1009 or a certificate of deposit, or other type of security adopted
1010 by rule of the department, which provides a financial assurance
1011 of cost recovery for the removal of a planting. The application
1012 must include, on a form provided by the department, the name of
1013 the applicant and the applicant's address or the address of the
1014 applicant's principal place of business; a statement completely
1015 identifying the nonnative plant to be cultivated; and a

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1016 statement of the estimated cost of removing and destroying the
1017 plant that is the subject of the special permit and the basis
1018 for calculating or determining that estimate. If the applicant
1019 is a corporation, partnership, or other business entity, the
1020 applicant must also provide in the application the name and
1021 address of each officer, partner, or managing agent. The
1022 applicant shall notify the department within 10 business days of
1023 any change of address or change in the principal place of
1024 business. The department shall mail all notices to the
1025 applicant's last known address.

1026 2. As used in this subsection, the term "certificate of
1027 deposit" means a certificate of deposit at any recognized
1028 financial institution doing business in the United States. The
1029 department may not accept a certificate of deposit in connection
1030 with the issuance of a special permit unless the issuing
1031 institution is properly insured by the Federal Deposit Insurance
1032 Corporation or the Federal Savings and Loan Insurance
1033 Corporation.

1034 (b) Upon obtaining a permit, the permitholder may annually
1035 cultivate and maintain the nonnative plants as authorized by the
1036 special permit. If the permitholder ceases to maintain or
1037 cultivate the plants authorized by the special permit, if the
1038 permit expires, or if the permitholder ceases to abide by the
1039 conditions of the special permit, the permitholder shall
1040 immediately remove and destroy the plants that are subject to
1041 the permit, if any remain. The permitholder shall notify the
1042 department of the removal and destruction of the plants within
1043 10 days after such event.

1044 (c) If the department:

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1045 1. Determines that the permitholder is no longer
1046 maintaining or cultivating the plants subject to the special
1047 permit and has not removed and destroyed the plants authorized
1048 by the special permit;

1049 2. Determines that the continued maintenance or cultivation
1050 of the plants presents an imminent danger to public health,
1051 safety, or welfare;

1052 3. Determines that the permitholder has exceeded the
1053 conditions of the authorized special permit; or

1054 4. Receives a notice of cancellation of the surety bond,
1055
1056 the department may issue an immediate final order, which shall
1057 be immediately appealable or enjoicable as provided by chapter
1058 120, directing the permitholder to immediately remove and
1059 destroy the plants authorized to be cultivated under the special
1060 permit. A copy of the immediate final order must ~~shall~~ be mailed
1061 to the permitholder and to the surety company or financial
1062 institution that has provided security for the special permit,
1063 if applicable.

1064 (d) If, upon issuance by the department of an immediate
1065 final order to the permitholder, the permitholder fails to
1066 remove and destroy the plants subject to the special permit
1067 within 60 days after issuance of the order, or such shorter
1068 period as is designated in the order as public health, safety,
1069 or welfare requires, the department may enter the cultivated
1070 acreage and remove and destroy the plants that are the subject
1071 of the special permit. If the permitholder makes a written
1072 request to the department for an extension of time to remove and
1073 destroy the plants that demonstrates specific facts showing why

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1074 the plants could not reasonably be removed and destroyed in the
1075 applicable timeframe, the department may extend the time for
1076 removing and destroying plants subject to a special permit. The
1077 reasonable costs and expenses incurred by the department for
1078 removing and destroying plants subject to a special permit shall
1079 be reimbursed to the department by the permitholder within 21
1080 days after the date the permitholder and the surety company or
1081 financial institution are served a copy of the department's
1082 invoice for the costs and expenses incurred by the department to
1083 remove and destroy the cultivated plants, along with a notice of
1084 administrative rights, unless the permitholder or the surety
1085 company or financial institution object to the reasonableness of
1086 the invoice. In the event of an objection, the permitholder or
1087 surety company or financial institution is entitled to an
1088 administrative proceeding as provided by chapter 120. Upon entry
1089 of a final order determining the reasonableness of the incurred
1090 costs and expenses, the permitholder has ~~shall have~~ 15 days
1091 after following service of the final order to reimburse the
1092 department. Failure of the permitholder to timely reimburse the
1093 department for the incurred costs and expenses entitles the
1094 department to reimbursement from the applicable bond or
1095 certificate of deposit.

1096 (e) Each permitholder shall maintain for each separate
1097 growing location a bond or a certificate of deposit in an amount
1098 determined by the department, but not more ~~less~~ than 150 percent
1099 of the estimated cost of removing and destroying the cultivated
1100 plants. The bond or certificate of deposit may not exceed \$5,000
1101 per acre, unless a higher amount is determined by the department
1102 to be necessary to protect the public health, safety, and

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1103 welfare or unless an exemption is granted by the department
1104 based on conditions specified in the application which would
1105 preclude the department from incurring the cost of removing and
1106 destroying the cultivated plants and would prevent injury to the
1107 public health, safety, and welfare. The aggregate liability of
1108 the surety company or financial institution to all persons for
1109 all breaches of the conditions of the bond or certificate of
1110 deposit may not exceed the amount of the bond or certificate of
1111 deposit. The original bond or certificate of deposit required by
1112 this subsection shall be filed with the department. A surety
1113 company shall give the department 30 days' written notice of
1114 cancellation, by certified mail, in order to cancel a bond.
1115 Cancellation of a bond does not relieve a surety company of
1116 liability for paying to the department all costs and expenses
1117 incurred or to be incurred for removing and destroying the
1118 permitted plants covered by an immediate final order authorized
1119 under paragraph (c). A bond or certificate of deposit must be
1120 provided or assigned in the exact name in which an applicant
1121 applies for a special permit. The penal sum of the bond or
1122 certificate of deposit to be furnished to the department by a
1123 permitholder in the amount specified in this paragraph must
1124 guarantee payment of the costs and expenses incurred or to be
1125 incurred by the department for removing and destroying the
1126 plants cultivated under the issued special permit. The bond or
1127 certificate of deposit assignment or agreement must be upon a
1128 form prescribed or approved by the department and must be
1129 conditioned to secure the faithful accounting for and payment of
1130 all costs and expenses incurred by the department for removing
1131 and destroying all plants cultivated under the special permit.

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1132 The bond or certificate of deposit assignment or agreement must
1133 include terms binding the instrument to the Commissioner of
1134 Agriculture. Such certificate of deposit shall be presented with
1135 an assignment of the permitholder's rights in the certificate in
1136 favor of the Commissioner of Agriculture on a form prescribed by
1137 the department and with a letter from the issuing institution
1138 acknowledging that the assignment has been properly recorded on
1139 the books of the issuing institution and will be honored by the
1140 issuing institution. Such assignment is irrevocable while a
1141 special permit is in effect and for an additional period of 6
1142 months after termination of the special permit if operations to
1143 remove and destroy the permitted plants are not continuing and
1144 if the department's invoice remains unpaid by the permitholder
1145 under the issued immediate final order. If operations to remove
1146 and destroy the plants are pending, the assignment remains in
1147 effect until all plants are removed and destroyed and the
1148 department's invoice has been paid. The bond or certificate of
1149 deposit may be released by the assignee of the surety company or
1150 financial institution to the permitholder, or to the
1151 permitholder's successors, assignee, or heirs, if operations to
1152 remove and destroy the permitted plants are not pending and no
1153 invoice remains unpaid at the conclusion of 6 months after the
1154 last effective date of the special permit. The department may
1155 not accept a certificate of deposit that contains any provision
1156 that would give to any person any prior rights or claim on the
1157 proceeds or principal of such certificate of deposit. The
1158 department shall determine by rule whether an annual bond or
1159 certificate of deposit will be required. The amount of such bond
1160 or certificate of deposit shall be increased, upon order of the

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1161 department, at any time if the department finds such increase to
1162 be warranted by the cultivating operations of the permitholder.
1163 In the same manner, the amount of such bond or certificate of
1164 deposit may be adjusted downward or removed ~~decreased~~ when a
1165 decrease in the cultivating operations of the permitholder
1166 occurs or when research or practical field knowledge and
1167 observations indicate a low risk of invasiveness by the
1168 nonnative species warrants such decrease. Factors that may be
1169 considered for change include multiple years or cycles of
1170 successful large-scale contained cultivation; no observation of
1171 plant, algae, or blue-green algae escape from managed areas; or
1172 science-based evidence that established or approved adjusted
1173 cultivation practices provide a similar level of containment of
1174 the nonnative plant, algae, or blue-green algae. This paragraph
1175 applies to any bond or certificate of deposit, regardless of the
1176 anniversary date of its issuance, expiration, or renewal.

1177 (f) In order to carry out the purposes of this subsection,
1178 the department or its agents may require from any permitholder
1179 verified statements of the cultivated acreage subject to the
1180 special permit and may review the permitholder's business or
1181 cultivation records at her or his place of business during
1182 normal business hours in order to determine the acreage
1183 cultivated. The failure of a permitholder to furnish such
1184 statement, to make such records available, or to make and
1185 deliver a new or additional bond or certificate of deposit is
1186 cause for suspension of the special permit. If the department
1187 finds such failure to be willful, the special permit may be
1188 revoked.

1189 Section 12. The Department of Agriculture and Consumer

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1190 Services shall conduct a comprehensive statewide forest
1191 inventory analysis and study, using a geographic information
1192 system, to identify where available biomass is located,
1193 determine the available biomass resources, and ensure forest
1194 sustainability within the state. The department shall submit the
1195 results of the study to the President of the Senate, the Speaker
1196 of the House of Representatives, and the Executive Office of the
1197 Governor by July 1, 2013.

1198 Section 13. The Office of Energy within the Department of
1199 Agriculture and Consumer Services, in consultation with the
1200 Public Service Commission, the Florida Building Commission, and
1201 the Florida Energy Systems Consortium, shall develop a
1202 clearinghouse of information regarding cost savings associated
1203 with various energy efficiency and conservation measures. The
1204 department shall post the information on its website by July 1,
1205 2013.

1206 Section 14. For the 2012-2013 fiscal year, the nonrecurring
1207 sum of \$250,000 is appropriated from the Florida Public Service
1208 Regulatory Trust Fund for the purpose of the Public Service
1209 Commission, in consultation with the Department of Agriculture
1210 and Consumer Services, contracting for an independent evaluation
1211 of the Florida Energy Efficiency and Conservation Act to
1212 determine if the act remains in the public interest. The
1213 evaluation must consider the costs to ratepayers, the incentives
1214 and disincentives associated with the provisions in the act, and
1215 if the programs create benefits without undue burden on the
1216 customer. The models and methods used to determine conservation
1217 goals must be specifically addressed in the report. The
1218 commission shall submit the report to the President of the

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1219 Senate, the Speaker of the House of Representatives, and the
1220 Executive Office of the Governor by January 31, 2013.

1221 Section 15. This act shall take effect July 1, 2012.